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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/630,998	08/02/2000	Kei Morimoto	55018(1360)	8017

7590 10/09/2002
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EXAMINER

WOODWARD, ANA LUCRECIA

ART UNIT	PAPER NUMBER
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1711

DATE MAILED: 10/09/2002

10

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

Applicant(s)

Examiner

Group Art Unit

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on July 10, 2002
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.**

Disposition of Claims

- ☒ Claim(s) 1-21 is/are pending in the application.
- Of the above claim(s) 4-6, 14 and 15 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-3, 7-13 and 16-21 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

Part of Paper No. _____

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DETAILED ACTION

Election/Restrictions

1. Claims 4-6, 14 and 15 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected group, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 7.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 7-13, and 17-21 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over European 0585056 (EP '056).

EP '056 teaches a resin composition comprising

- (1) a polyamide formed from a diamine mixture of at least 60% of m-xylylenediamine with 40% or less of p-xylylenediamine and aliphatic dicarboxylic acid,
- (2) a polyamide 66,
- (3) a modified polyphenylene ether
- (4) a fibrous inorganic filler,

- (5) a powdery inorganic filler,
- (6) an epoxy resin, and
- (7) a copper compound and/or a powdery phenolic resin. See claims 8 and 9.

It is maintained that the composition of the reference meets the requirements of the present claims both in terms of the types of materials added and their contents. Furthermore, since the composition of the reference is the same as applicants', it too would be expected to inherently meet all the claimed characteristics governing the presently claimed composition. The onus is shifted to applicants to establish that the product of the prior art is not the same as that presently claimed.

5. Claims 1, 7-13 and 16-21 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over European 0620244 (EP '244).

EP '244 discloses packaging films having at least one layer composed of a polyamide-based mixed resin containing 20 to 70wt% of an aliphatic polyamide (nylon 6 or nylon 66), 5 to 35wt% of an amorphous polyamide, 5 to 45wt% of a xylilene-based polyamide and 5 to 50wt% of a polyamide-modified ionomer. The xylilene-based polyamide is a polycondensate of a diamine mixture of not less than 60 wt% meta-xylilenediamine and not more than 40 wt% para-xylilenediamine and an aliphatic dicarboxylic acid. See claims 9 and 10.

It is maintained that the composition of the reference meets the requirements of the present claims both in terms of the types of materials added and their contents. Furthermore, since the composition of the reference is the same as applicants', it too would be expected to inherently meet all the claimed characteristics governing the presently claimed composition. The

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onus is shifted to applicants to establish that the product of the prior art is not the same as that presently claimed.

Claim Rejections - 35 USC § 103

6. Claims 2, 3 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over European 0585056 (EP '056) further in view of European 0839862 (EP '862).

Claims 2 and 3 basically differ from the disclosure of EP '056 in that the latter does not expressly exemplify an embodiment containing inorganic fillers. While not expressly exemplified, it would have been obvious to one having ordinary skill in the art to have employed inorganic fillers for their expected additive effect, in the amounts prescribed by the above-rejected claims, in the base resin compositions of EP'056 comprising the polyamide resin mixture. This is because the reference clearly teaches and contemplates the addition of fibrous and powdery inorganic fillers. Accordingly, absent evidence of unusual or unexpected results, no patentability can be seen in applicants' claims 2 and 3.

Claim 16 differs from the disclosure of EP '056 in that the latter does not expressly disclose nylon 6. However, the conventionality of either using nylon 6 or nylon 66 in analogous resin compositions is known from the prior art. In this regard, attention is directed to the background disclosure of EP '056 (page 1, lines 17-23) and further to EP ' 862 (page 3, lines 17-28). Accordingly, it would have been obvious to one having ordinary skill in the art to have employed nylon 6 in lieu of nylon 66 in the composition of EP '056 because said nylon species are known to be interchangeable in the prior art and one having ordinary skill in the art would reasonably expect said substitution to provide similar results. Absent evidence of unusual or unexpected results, no patentability can be seen in applicants' claim 16.

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7. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over European 0620244 (EP '244).

These claims basically differ from the disclosure of EP '244 in that the latter do not expressly exemplify inorganic fillers. In light of the general disclosure set forth at page 5, lines 23-25, it would have been obvious to one having ordinary skill in the art to use inorganic fillers for their expected additive effect because the reference clearly contemplates the incorporation of conventional adjuvants.

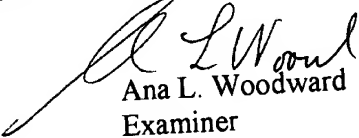
Response to Amendment

8. The rejection over EP 0424556 and EP 0458470 has been withdrawn in light of applicants' arguments filed July 10, 2002.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ana L. Woodward whose telephone number is (703) 308-2401. The examiner can normally be reached on Monday-Friday (8:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James J. Seidleck can be reached on (703) 308-2462. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-8183.


Ana L. Woodward
Examiner
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